BEFORE THE IOWA DEPARTMENT OF REVENUE
HOOVER STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF SIGNATURE BRANDS OF AMERICA LLC 13551 SW 135TH AVE UNIT 308 MIAMI FL 33186-5839 CIGARETTE AND TOBACCO	**DECLARATORY ORDER** DOCKET NO. 1368021

Pursuant to a Petition for Declaratory Order ("Petition") filed with the Iowa Department of Revenue ("Department") by SIGNATURE BRANDS OF AMERICA, LLC ("Petitioner") on June 19, 2026, and in accordance with Iowa Code section 17A.9 (2026) and Iowa Administrative Code chapter 7—2503 and rule 701—2503.1 (17A) (2026), the Director issues the following order.

I. FACTS

The findings of fact are based on the Petition submitted to the Department, its supplements, and other publicly available information relevant to the Petition.

Petitioner produces and sells CHOICE brand "ercigs"[1] to provide its customers with "a new way to enjoy the ritual of smoking." *Our Story*, Signature Brands (last visited Oct. 12, 2026).[2] As Petitioner explains, the CHOICE product "is a smokeable alternative to cigarettes." Pet. for Dec. Order, No. 1368021 (June 19, 2026) ¶ 2 [hereinafter "Petition"]. Unlike traditional cigarettes, CHOICE products do not contain tobacco, nor do they contain any tobacco-derived material,

[1] The Director understands "ercig" or "ercigs" to be a portmanteau of the words "ersatz" and "cigarette." *Homepage*, Signature Brands, https://www.signaturebrandsusa.com/ (last visited Oct. 12, 2026).
[2] Available at https://www.signaturebrandsusa.com/about-01.

"synthetic tobacco blends, or processed tobacco derived fillers." Petition at ¶ 2. CHOICE products also contain no nicotine. *Id*.[3]

Instead, to give their customers a "smoke-like experience product" that provides "an enjoyable alternative to a tobacco cigarette," CHOICE products contain "a proprietary blend of . . . herbal materials." *Frequently Asked Questions*, Signature Brands (last visited Oct. 12, 2026).[4] The herbal blend used in CHOICE products "is an organic[,] plant-based product that is tobacco-free" and is free from various "other hazardous ingredients found in tobacco." Pet. Supplement, Pet. for Dec. Order, No. 1368021 (June 19, 2026) at 1 [hereinafter "Pet. Supplement"]. Similarly, in lieu of the nicotine contained in traditional tobacco cigarettes, the CHOICE products contain "Novara . . . a proprietary formulated nicotine substitute which delivers the same pleasure[,]" *FAQs*, Choice by Signature Brands (last visited Oct. 12, 2026),[5] as nicotine and which "provid[es] the effect, presence, and balance that adult smokers seek in their ritual." *Our Story*, Signature Brands (last visited Oct. 12, 2026).[6] Despite these significant differences from traditional cigarettes, Petitioner's CHOICE products look like traditional cigarettes, are sold in packs of twenty like traditional cigarettes, and are available in two styles, regular and menthol, like many traditional cigarettes on the market. *Homepage*, Signature Brands (last visited Oct. 12, 2026).[7]

II. ISSUES PRESENTED

Petitioner presents three issues for the Director's consideration:

A. Whether Petitioner's CHOICE products are "cigarettes" under chapter 453A of the Iowa Code and the associated administrative rules.

[3] Petitioner included with its submission a laboratory analysis indicating that the CHOICE products tested show nicotine levels low enough to be considered "nonquantifiable" by the facility conducting the tests. Pet. Supplement, Pet. for Dec. Order, No. 1368021 (June 19, 2026) at 16.

[4] Available at https://www.signaturebrandsusa.com/faq.

[5] Available at https://bestchoicesmokes.com/pages/faq.

[6] Available at https://www.signaturebrandsusa.com/about-01.

[7] Available at https://www.signaturebrandsusa.com/.

B. Whether Petitioner's CHOICE products are "tobacco products" under chapter 453A of the Iowa Code and the associated administrative rules.

C. Whether Petitioner's CHOICE products are "alternative nicotine products" under chapter 453A of the Iowa Code and the associated administrative rules.

III. STANDARD OF REVIEW

A. Declaratory Orders Under the Iowa Administrative Procedure Act

Iowa Code chapter 17A, the Iowa Administrative Procedure Act ("IAPA"), was enacted "to provide a minimum procedural code for the operation of all state agencies when they take action affecting the rights and duties of the public." Iowa Code § 17A.1(2). Under the IAPA, "[a]ny person may petition an agency for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the agency." *Id*. at § 17A.9(1)(a). The IAPA also prescribes the agency's obligations in acting on such a petition. *See id*. at § 17A.9(3)-(6).

Pursuant to Iowa Code section 17A.9(2), and in addition to Iowa Administrative Code chapter 7—2503, the Department adopted Iowa Administrative Code rule 701—2503.1, which outlines department-specific rules governing declaratory orders. The purpose of a declaratory order is to provide a "generally available means for persons to obtain reliable information about agency administered law as it applies to their particular circumstances." *Sierra Club Iowa Chapter v. Iowa Dep't of Trans*p., 832 N.W.2d 636, 647 (Iowa 2013) (citing Arthur Earl Bonfield, *Amendments to Iowa Administrative Procedure Act, Report on Selected Provisions to Iowa State Bar Association and Iowa State Government*, 1-8 (1998)). Declaratory orders are not contested cases that "entitle[] parties affected by the agency action to an adversarial hearing" in order to "adjudicate disputed facts pertaining to particular individuals in specific circumstances." *Greenwood Manor v. Iowa Dep't of Pub. Health, State Health Facilities Council*, 641 N.W.2d

823, 834 (Iowa 2002); *see also* Iowa Code § 17A.12. Instead, the IAPA "contemplates declaratory rulings by administrative agencies on purely hypothetical sets of facts." *City of Des Moines v. Pub. Emp't Relations Bd*., 275 N.W.2d 753, 758 (Iowa 1979).

As such, "[t]he procedure established by section 17A.9 allows persons to seek formal opinions on the effect of future transactions and arrange their affairs accordingly." *Bennett v. Iowa Dep't of Nat. Res*., 573 N.W.2d 25, 26 (Iowa 1997). Declaratory orders issued by an administrative agency do, however, have "the same status and binding effect as any final order issued in a contested case proceeding." Iowa Code § 17A.9(7). The administrative rules reflect the same understanding. *See* Iowa Admin. Code ch. 7—2503 and r. 701—2503.1.

B. Statutory Construction and Interpretation of Tax Statues

When engaging in statutory interpretation, the Department "first examine[s] the language of the statute and determine[s] whether it is ambiguous." *Kay-Decker v. Iowa State Bd. of Tax Review*, 857 N.W.2d 216, 223 (Iowa 2014) (citing *Rolfe State Bank v. Gunderson*, 794 N.W.2d 561, 564 (Iowa 2011)). "Generally, we presume words used in a statute have their ordinary and commonly understood meaning." *Id*. (quoting *McGill v. Fish*, 790 N.W.2d 113, 119 (Iowa 2010)). "[L]egislative intent is expressed by what the legislature has said, not what it could or might have said. When a statute's language is clear, we look no further for meaning than its express terms. Intent may be expressed by the omission, as well as the inclusion . . . of statutory terms. . . ." *Hawkeye Land Co. v. Iowa Utils. Bd*., 847 N.W.2d 199, 210 (Iowa 2014) (quoting *State v. Beach*, 630 N.W.2d 598, 600 (Iowa 2001)). Tax statutes are construed no differently. *See Chickasaw Cnty. Bd. of Review v. Prop. Assessment Appeal Bd*., 36 N.W.3d 273, 283 (Iowa 2026) (holding that courts "will construe tax statutes according to their ordinary meaning and apply the same principles of construction we apply to any other type of statute").

IV. DISCUSSION

A. Statutory and Regulatory Framework

Chapter 453A of the Iowa Code governs the administration of taxes on cigarettes and tobacco products. *See* Iowa Code ch. 453A. That chapter, along with others, outlines the requirements that products within its purview and persons engaged in the sale of those products in Iowa must meet for the sales to be permissible. *See id*.; *see also* Iowa Code chs. 421B, 453C–453D. Three product classifications—cigarette, tobacco product, and alternative nicotine product—are pertinent to this Petition and each of them will be addressed below.

1. "Cigarettes" Under Iowa Code Chapter 453A

"Cigarette," as defined in the Iowa Code, "means any roll for smoking made wholly or in part of tobacco, or any substitute of tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material." Iowa Code § 453A.1(4). The definition of "cigarette" explicitly excludes cigars. *Id*. Additionally, any product that is determined to be a "tobacco product" or an "alternative nicotine product" cannot also be a "cigarette." Iowa Code §§ 453A.1(1), .1(28), .42(16).

Cigarettes "used or otherwise disposed of" in Iowa are subject to a tax "equal to six and eight-tenths cents" per cigarette. Iowa Code § 453A.6(1). To pay Iowa's cigarette tax, licensed distributors and manufacturers are instructed to purchase tax stamps from the Department and to affix them "upon every individual package of cigarettes received . . . in this state or for distribution in this state, upon which no sufficient tax stamp is already affixed." Iowa Code § 453A.10; *see also* Iowa Code §§ 453A.8 (outlining the "sale and exchange" of Iowa cigarette tax stamps), .16 (permitting manufacturers to stamp products and requiring stamping of out-of-state cigarettes for shipment into Iowa if the purchaser is anyone other than a licensed distributor). Payment of Iowa's

cigarette tax is "evidenced by stamps purchased from the department . . . and securely affixed to each individual package of cigarettes in amounts equal to the tax imposed" by the Code. Iowa Code § 453A.6(3). In general, it is "unlawful for any person . . . to receive or accept delivery of any cigarettes without stamps affixed to evidence the payment of the tax[.]" Iowa Code § 453A.10.

Manufacturers, distributors, wholesalers, retailers, and other persons who are engaged in buying, selling, and transporting cigarettes in Iowa are also required to meet various other criteria laid out in Iowa Code chapter 453A. For example, manufacturers, distributors, wholesalers, retailers, and others are required to obtain permits to operate in Iowa. Iowa Code §§ 453A.13, .16–.17, .23. Manufacturers, distributors, wholesalers, retailers, and others are also required to maintain records prescribed by Code and the Department's administrative rules and to make certain reports about their sales of cigarettes. Iowa Code §§ 453A.15, .18; Iowa Admin. Code rr. 701—230.2, 230.3, 231.7. Additionally, several provisions of the Code and rules also regulate the product or products being sold or the sale itself. *See, e.g.,* Iowa Code §§ 453A.2 (prohibiting supplying cigarettes to individuals under twenty-one years of age), .6(7) (requiring cigarettes to be packaged and sold in quantities of twenty or more), .21 (prohibiting retailers from selling or possessing unstamped cigarettes), .36(6) (outlining limits on vending machine sales), .36(8) (prohibiting the sale of loose cigarettes, products in unsealed packages, and products without health warnings "required by federal law"), .36(9) (prohibiting the importation and sale of cigarettes "exported from or manufactured for use outside the United States"), .36(10) (prohibiting the importation and sale of "counterfeit cigarettes"), .36A (prohibiting the use of self-service displays for cigarette sales other than permitted vending machine sales); Iowa Admin. Code r. 701—231.10(4) (prohibiting all delivery sales of cigarettes and tobacco products); *see also*, Iowa Code chs. 421B (regulating unfair sales of covered products); 453C–453D (containing the requirements under the Master Settlement Agreement that must be met to sell covered products in Iowa). Failure to meet

these requirements may result in license sanction action, the imposition of civil and criminal penalties, and seizure of contraband products. *See, e.g.,* Iowa Code §§ 453A.3 (civil and criminal penalties for underage sales), .22 (license sanction and civil penalty), .31 (civil penalties), .32 (seizure and forfeiture), .36 (license sanction).

2. "Tobacco Products" Under Iowa Code Chapter 453A

The Iowa Code differentiates between cigarettes, discussed above, and "tobacco products." Under the statutory definition, "tobacco products" are

> cigars; little cigars . . .; cheroots; stogies; periques; granulated; plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; or refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking[.]

Iowa Code §§ 453A.1(28), .42(16). As mentioned, a product that is determined to be a "tobacco product" cannot be a cigarette. Iowa Code § 453A.1(4), .1(28); .42(16). Similarly, a product that is determined to be an "alternative nicotine product" cannot be a "tobacco product." Iowa Code § 453A.1(1).

As with cigarettes, the Iowa Code imposes an excise tax on "all tobacco products in this state and upon any person engaged in business as a distributor of tobacco products." Iowa Code § 453A.43(1). For all tobacco products, except for snuff and little cigars, the tax is equal to fifty percent of the wholesale sales price of the product. Iowa Code §§ 453A.43(1)(a)–(b). If the tobacco product is a cigar, the imposed tax "shall not exceed fifty cents per cigar." Iowa Code § 453A.43(1)(c). For snuff, the tax imposed is calculated based on the weight of the snuff product—with the tax set at $1.19 per ounce of snuff with a proportional amount of tax imposed "on all fractional parts of an ounce of snuff." Iowa Code § 453A.43(3). Little cigars, in contrast, are taxed in the same manner as cigarettes. Iowa Code § 453A.43(1)(d). The tax on tobacco products and

snuff is "imposed at the time the distributor does any of the following: . . . Brings, or causes to be brought, into this state form outside the state [covered products] for sale. . . . Makes, manufactures, or fabricates [covered products] in this state for sale in this state. . . . [or] Ships or transports [covered products] to retailers in this state, to be sold by those retailers." Iowa Code §§ 453A.43(1)(e), .43(3)(a)–(c). To pay the tax, tobacco products distributors are required to complete and submit a monthly tobacco products tax return "showing for the preceding calendar month the quantity and wholesale sales price" of products subject to the tax and must remit the amount of tax shown on the return. Iowa Code § 453A.46(1), .46(6).

Also, as with cigarettes, various additional statutory provisions housed in Iowa Code chapter 453A and the Department's administrative rules regulate the sale of tobacco products in Iowa. Distributors, subjobbers, and retailers must be licensed to sell tobacco products in Iowa. Iowa Code §§ 453A.44(1), .47A(1). Additionally, persons engaged in the tobacco trade are required to keep records and make reports to the Department. Iowa Code §§ 453A.45, .47A(10). A person's failure to comply with the provisions of the Code and the Department's administrative rules may result in license sanction action, the imposition of civil and criminal penalties, or the seizure of product. Iowa Code § 453A.32(6) (seizure of tobacco products), .36(6) (outlining limits on vending machine sale), .36(7)(a) (prohibiting the retail sale of tobacco products by anyone other a person with a valid retailer permit), .36A (prohibiting the use of self-service displays for tobacco product sales other than permitted vending machine sales), .47A(11) (making penalties for underage sales applicable to sales of tobacco products), .50 (establishing civil and criminal penalties for violations of the provisions of chapter 453A specific to tobacco products).

3. "Alternative Nicotine Products" Under Iowa Code Chapter 453A

"Alternative nicotine product" is defined by the Iowa Code as "a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by

chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means." Iowa Code § 453A.1(1).[8] The definition of "alternative nicotine products" explicitly excludes products classified as "cigarettes" and "tobacco products." *Id*.

Unlike cigarettes and tobacco products, discussed above, alternative nicotine products are currently not subject to an excise tax in Iowa other than the sales and use tax on all tangible personal property.[9] However, persons engaged in the alternative nicotine product business are subject to various provisions that regulate the trade in those products. For example, the Code requires those who wish to sell alternative nicotine products at retail to hold a valid retail permit, to maintain records, and to submit reports to the Department when requested. Iowa Code §§ 453A.47A(1)–(2), (10). The Code also prohibits the sale of alternative nicotine products to persons under twenty-one years of age and imposes limits on persons' ability to "give away" alternative nicotine product samples. Iowa Code §§ 453A.29(2) (outlining limits on providing samples of alternative nicotine products), .36A (prohibiting the use of self-service displays for alternative nicotine product sales other than permitted vending machine sales), .47A(11) (making penalty provisions for underage sales applicable to retailers of alternative nicotine products). One notable difference between the treatment of cigarettes and tobacco products and alternative nicotine products is that, while delivery sales of cigarettes and tobacco products are prohibited under Iowa Administrative Code rule 701—231.10(4), the Code permits delivery sales of alternative nicotine products to Iowa consumers as long as the delivery seller holds a valid permit and complies with

[8] On May 26, 2026, the Governor signed Senate File 2480. Senate File 2480, 91 G.A., 1st Sess. That bill, which becomes effective on January 1, 2027, updates section 453A.1's definition of "alternative nicotine product" to include products "not consisting of or containing tobacco, that provide[] for the ingestion into the body of nicotine, *or a nicotine analog* . . . ." Senate File 2480, 91 G.A., 1st Sess., § 1 (emphasis added to highlight legislative addition).

[9] Senate File 2480 also imposes an excise tax on alternative nicotine products and vapor products. Senate File 2480, 91 G.A., 1st Sess., § 6. Beginning on January 1, 2027, alternative nicotine products will be taxed at a rate of "five cents per container containing up to twenty units, and a proportionate tax at the same rate on each unit in excess of twenty units." Senate File 2480, 91 G.A., 1st Sess., § 6.

the age verification procedures described in statute. Iowa Code §§ 453A.13(1) (requiring delivery seller permits for delivery sales of alternative nicotine products), .47B (describing age verification requirements for delivery sales of alternative nicotine products). Failure to meet the requirements laid out in Code and in rule can result in license sanction action and the imposition of civil or criminal penalties. Iowa Code §§ 453A.22 (license sanction and civil penalties), .31 (civil penalties), .36 (license sanction and civil penalties), .50 (civil and criminal penalties).

B. Petitioner's CHOICE Products Are "Cigarettes" Under Iowa Code Chapter 453A

A "cigarette" under Iowa Code section 453A.1(4) is

> any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material.

In the present matter, as shown on their website, CHOICE products are clearly "roll[s]" as contemplated by the Code with a "wrapper . . . made of paper or any other material." *Homepage*, Signature Brands (last visited Oct. 12, 2026).[10] It is also clear that CHOICE products are "for smoking." Petition at ¶ 2 (describing the product as a "smokable alternative" to traditional cigarettes); Pet. Supplement at 1 (same). At the same time, the Petition makes clear that CHOICE products are not "made wholly or in part of tobacco" because CHOICE products "contain[] no tobacco" and are free of "tobacco derivative material, synthetic tobacco blends, or processed tobacco derived fillers." Petition at ¶ 2. Thus, the analysis of whether CHOICE products fall within the statutory definition of "cigarette" turns on whether CHOICE products are "made wholly or in part of . . . *any substitute for tobacco*." Iowa Code 453A.1(4) (emphasis added). The Director believes they are.

[10] *Available at* https://www.signaturebrandsusa.com/.

Neither chapter 453A of the Iowa Code nor the Department's administrative rules define the word "substitute" or the phrase "substitute for tobacco." *See* Iowa Code ch. 453A; Iowa Admin. Code rr. 701—230, 231, 232. As noted, when an ambiguous term is being interpreted, the presumption is that the "words used in a statute have their ordinary and commonly understood meaning." *Kay-Decker v. Iowa State Bd. of Tax Review*, 857 N.W.2d 216, 223 (Iowa 2014) (quoting *McGill v. Fish*, 790 N.W.2d 113, 119 (Iowa 2010)). The noun "substitute" is defined as "a person or *thing* serving or *used in place of another*." Webster's New World College Dictionary 1428 (Michael Agnes, ed., 4th ed., 2006). Here, Petitioner's product contains "an organic[,] plant-based" filler made of "100% U.S.-grown biomass." Pet. Supplement at 1. This material is the "thing . . . used in place" of the tobacco found in traditional cigarettes. Thus, the Director concludes that Petitioner's product is a "cigarette" for purposes of chapter 453A because it is a "roll for smoking made wholly or in part of . . . [a] substitute for tobacco, . . . where such roll has a wrapper or cover made of paper or any other material." Iowa Code § 453A.1(4).

Petitioner asserts that its products should not be considered "cigarettes" under Iowa law "due to the absence of tobacco and nicotine." Pet. Supplement at 4. However, because the Code includes within its definition of "cigarette" products "made wholly or in part of . . . any *substitute for tobacco*," the absence of tobacco, by itself, does not place Petitioner's products outside the statutory definition of cigarette. Iowa Code § 453A.1(4). Further, the Code's definition of "cigarette" does not make any reference to the product's nicotine content, which makes the absence of nicotine in Petitioner's product irrelevant to the Director's analysis. *See id*. Petitioner also contends that its products' lack of "*traditional* tobacco substitutes such as tobacco derivative material, synthetic tobacco blends, or processed tobacco-derived fillers" should place its products outside of the Code's "cigarette" definition. Pet. Supplement at 4 (emphasis added). However, the Code makes no distinction between traditional tobacco substitutes and more novel tobacco

substitutes. *See* Iowa Code § 453A.1(4). As a result, the Director is unconvinced that these characteristics of Petitioner's products leave them beyond the reach of the Code's definition of "cigarette." Because Petitioner's CHOICE products fall within the statutory definition of "cigarette," the products are subject to Iowa's excise tax on cigarettes. Iowa Code § 453A.6(1). Additionally, sales of Petitioner's CHOICE products and persons wishing to sell Petitioner's CHOICE products are subject to the provisions of Iowa Code chapter 453A regulating sales of cigarettes and the sellers of cigarettes in Iowa. *See generally* Iowa Code ch. 453A.

Petitioner also cites a federal definition of "cigarette" and references other states' treatment of Petitioner's products to support its position that its products should not be considered cigarettes under Iowa law. Pet. Supplement at 2–3, 8–14. The Director is unpersuaded. First, the provision of federal law cited by Petitioner differs materially from the Iowa definition of "cigarette." That provision, in pertinent part, provides that "'[c]igarette means . . . any roll of tobacco wrapped in paper or in any substance not containing tobacco[.]" 26 U.S.C. § 5702(b). This definition, unlike the Iowa Code's definition, does not reference tobacco substitutes. *Compare* 26 U.S.C. § 5702(b) *with* Iowa Code § 453A.1(4). Because Iowa's definition of "cigarette" clearly includes products "made wholly or in part of . . . *any substitute for tobacco*," Iowa Code § 453A.1(4) (emphasis added), Petitioner's products, in the Director's view, fall within the scope of chapter 453A even though they may "not . . . be included within the definition of a cigarette under Federal law." Pet. Supplement at 2. With respect to other states' regulatory treatment of Petitioner's products, the Director is tasked with administering Iowa's tax laws, including Iowa's cigarette excise tax. Iowa Code §§ 421.2, .17. Thus, while other states' determinations regarding Petitioner's products may be informative, they are not controlling—the pole star guiding the Director's analysis is the language adopted by the Iowa legislature and codified at section 453A.1(4), which includes in its

definition of "cigarette" products, like those offered by Petitioner, that contain "any substitute for tobacco."

C. Petitioner's CHOICE Products Are Not "Tobacco Products" Under Iowa Code Chapter 453A

The Code, as noted, defines "tobacco products" as

> cigars; little cigars . . . ; cheroots; stogies; periques; granulated; plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; or refuse scraps, clippings, cuttings and sweepings of tobacco, *and other kinds and forms of tobacco*, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise . . . .

Iowa Code §§ 453A.1(28) (emphasis added); *see also*, Iowa Code § 453A.42(16). The statutory definition of "tobacco product" lists several specific product types that contain tobacco. *Id*. The unifying characteristic of all products covered by the definition is the presence of tobacco within the product. *Id*. CHOICE products "contain[] no tobacco," utilizing instead a material of "100% U.S.-grown biomass." Petition at ¶ 2. Further, the material used in CHOICE products is free from "tobacco derivative material, synthetic tobacco blends, or processed tobacco derived fillers." *Id*. Because Petitioner's CHOICE products are tobacco-free, these products cannot be considered an "other kind[] or form[] of tobacco" within the meaning of the Code and, as a result, cannot be classed as "tobacco products."

D. Petitioner's CHOICE Products Are Not "Alternative Nicotine Products" Under Iowa Code Chapter 453A

As discussed above, the Code defines "alternative nicotine product" as "a product, not consisting of or containing tobacco, *that provides for the ingestion into the body of nicotine* whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means." Iowa Code § 453A.1(1) (emphasis added). CHOICE products, as described by Petitioner, are

undoubtedly "product[s], not consisting of or containing tobacco" because the CHOICE products contain "an organic[,] plant-based product that is tobacco-free." Pet. Supplement at 1. However, CHOICE products do not contain nicotine. Petition at ¶ 2; Pet. Supplement at 1–2, 16. Because CHOICE products contain no nicotine, the products cannot "provide[] for the ingestion into the body of nicotine" by any method as required by the Code. As a result, Petitioner's CHOICE products do not fall within the statutory definition of "alternative nicotine product" and cannot be considered "alternative nicotine products" under the Code.

ORDER

THEREFORE, based on the facts presented, the foregoing reasoning, and the applicable provisions of law, the Director concludes:

1. Petitioner's CHOICE products are "cigarettes" under Iowa Code chapter 453A and the related Iowa administrative rules and are subject to Iowa's cigarette excise tax. The sale of Petitioner's CHOICE products in Iowa, and persons wishing to sell Petitioner's CHOICE products in this state, are similarly subject to the provisions of Iowa Code chapter 453A that regulate the sale of cigarettes in Iowa.

2. Petitioner's CHOICE products are not "tobacco products" under Iowa Code chapter 453A and the related Iowa administrative rules.

3. Petitioner's CHOICE products are not "alternative nicotine products" under Iowa Code chapter 453A and the related Iowa administrative rules.

Issued at Des Moines, Iowa on this 13th day of October, 2026.

IOWA DEPARTMENT OF REVENUE

By Mary Mosiman
Mary Mosiman, Director